



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

In re PATENT application of
GRESS et al.

Group Art Unit: 2151

Application No. 09/633,899

Examiner: Dinh, K.

Filed: August 7, 2000

Title: Unified Messaging Feature That Plays Greetings
Based on The Received Calling Party Number

Docket: 95-445

Date: June 10, 2004

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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JUN 16 2004

Technology Center 2100

Sir:

- 1 ☐ **NOTICE OF APPEAL:** Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision (not Advisory Action) dated December 19, 2003 of the Examiner twice/finally rejecting claims 1-34
- 2 ☒ **BRIEF** on appeal in this application attached in triplicate.
- 3 ☐ An **ORAL HEARING** is respectfully requested under Rule 194 (due two months after Examiner's Answer -- unextendable).
- 4 ☐ Reply Brief is attached in triplicate (due two months after Examiner's Answer -- unextendable).

5. FEE CALCULATION:		Large/Small Entity	
If box 1 above is X'd, see box 12 below <u>first</u> and decide: enter		\$330/165*	\$ 330.00
If box 2 above is X'd, see box 12 below <u>first</u> and decide: enter		\$330/165*	\$
If box 3 above is X'd, see box 12 below <u>first</u> and decide: enter		\$290/145*	\$
If box 4 above is X'd, enter nothing		- 0 - (no fee)	
6. Original due date: March 19, 2003			
7. Petition is hereby made to extend the original due date to cover the date this response is filed for which the requisite fee is attached	(1 mo) \$110/\$55 (2 mos) \$420/\$210 (3 mos) \$950/\$475 (4 mos) \$1480/\$740	+ 0	
8. Enter any previous extension fee paid [] previously since above <u>original</u> due date (item 6); [] with concurrently filed amendment		-	
9. Subtract line 8 from line 7 and enter: Total Extension Fee			+0
10. TOTAL FEE ATTACHED =			\$330.00

11. ☐ *Fee **NOT** required if/since paid in prior appeal in which the Board of Patent Appeals and Interferences did not render a decision on the merits.

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficient fee only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order No. 50-1130/95-445 for which purpose a duplicate copy of this sheet is attached. This CHARGE STATEMENT **does not authorize** charge of the issue fee until/unless an Issue fee transmittal form is filed

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: GRESS et al.

Examiner: Dinh, K.

Application No.: 09/633,899

Group Art Unit: 2155

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For: Unified Messaging Feature That Plays Greetings
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APPEAL BRIEF

Commissioner of Patents
P. O. Box 1450
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Sir:

This is an appeal from the final rejection of claims 1-34 of the above-identified application.

This Appeal Brief is submitted in triplicate as required by 37 C.F.R. § 1.192 (a).

1. Real Party in Interest:

This application is assigned to Cisco Technology Inc., the real party of interest.

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2. Related Appeals and Interferences:

There are no other appeals or interferences known to Appellant that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

3. Status of Claims:

Claims 1-34 are pending in this application. Claims 1-34 stand rejected by the Examiner.

4. Status of any Amendment Filed Subsequent to Final Rejection:

No Amendment was filed in response to the final rejection. A Response to the final rejection was filed on February 19, 2004 that was not entered by the Examiner.

5. Summary of Invention

The invention relates to playing a personalized voice message of a called party to a calling party. It is assumed that some entity (e.g., a called party or a representative of the called party) has prerecorded a personalized message for the calling party based on the calling party's number information (e.g., entire phone number, or area code, etc.)

Thus, the invention of claim 1 is directed to a method for playing a messaging prompt of a called party to a calling party. Calling party number information specifying a calling party is received (Figure 4, step 200). Stored calling party number information is accessed from an Internet Protocol (IP) based database server configured for storing calling party number information (Figure 4, step 202). The received calling party

number information is compared to the stored calling party number information to determine if there is a match between the received calling party number information and the stored calling party number information (Figure 4, steps 206, 209). Based on a determined match, a personalized voice message of the called party corresponding to the matched, stored calling party number information, is retrieved for playback as the messaging prompt to the calling party (Figure 4, steps 212, 214).

The invention of claim 2 is that the received and stored calling party number information each includes at least a portion of a telephone number of the calling party (page 11, lines 4-11).

The invention of claim 3 is that the accessing step includes accessing the IP-based database server according to LDAP protocol (page 10, lines 26-28).

The invention of claim 4 is that the retrieving step includes accessing the personalized voice message stored in the IP-based database server according to LDAP protocol (page 11, lines 4-6).

The invention of claim 5 is that the retrieving step includes retrieving the stored personalized voice message from the IP based database server (page 9, line 28 to page 10, line 2).

The invention of claim 6 is that the step of receiving calling party number information includes receiving an HTTP request from the calling party, the HTTP request containing the calling party number information (page 10, lines 15-16).

The invention of claim 7 is that an HTML page having XML tags for specifying playing of the personalized voice message is generated (Figure 4, step 212).

The invention of claim 8 is that the step of generating the HTML page includes inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file (page 8, lines 19-21).

The invention of claim 9 further includes corresponding a flag to certain of the stored calling party number information, the flag indicating a calling feature defined by a called party for use by the calling party (page 12, lines 20-23).

The invention of claim 10 is that the calling feature defines one of a paging operation and a single number reach operation (page 12, lines 20-23).

The invention of claim 11 further includes receiving a dialed number identification string (DNIS), and the accessing step includes accessing a subscribers' profile based on the DNIS, the subscriber's profile including the stored calling party number information and the corresponding personalized voice message (10, lines 14-28).

The invention of claim 12 is a messaging system for playing a messaging prompt of a called party to a calling party in response to a request for execution of a messaging operation, the request containing calling party number information. The messaging system includes an application runtime environment configured for retrieving, for playback as the messaging prompt to the calling party, a personalized voice message of the called party based on a match of the received calling party number information with calling party number information stored in an Internet Protocol (IP) based database

server (page 9, lines 13-24). The personalized voice message corresponds to the matched, stored calling number information of the calling party (page 11, lines 15-19).

The invention of claim 13 is that the application runtime environment is configured to access a subscriber's profile based on a dialed number identification string (DNIS), the subscriber's profile including the stored calling party number information and the corresponding personalized voice message (page 10, lines 18-28).

The invention of claim 14 is that the application runtime environment is configured to access the IP-based database server according to LDAP protocol (page 11, lines 4-6).

The invention of claim 15 is that the received and stored calling party number information each includes at least a portion of a telephone number of the calling party (page 11, lines 4-11).

The invention of claim 16 is that the application runtime environment is configured to dynamically generate in response to the request, a hypertext markup language (HTML) document having XML tags specifying playing of the personalized voice message (Figure 4, step 212).

The invention of claim 17 is that the application runtime environment is configured to generate the HTML page including inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file (page 8, lines 19-21).

The invention of claim 18 is a computer readable medium having stored thereon sequences of instructions for playing a messaging prompt of a called party to a calling party. The sequence of instructions including instructions for performing the steps of receiving calling party number information specifying a calling party (Figure 4, step 200); accessing stored calling party number information from an Internet Protocol (IP) based database server configured for storing calling party number information (Figure 4, step 202); comparing the received calling party number information to the stored calling party number information to determine if there is a match between the received calling party number information and the stored calling party number information (Figure 4, step 206, 208); and based on a determined match, retrieving a personalized voice message of the called party corresponding to the matched, stored calling party number information, for playback as the messaging prompt to the calling party (Figure 4, steps 212, 214).

The invention of claim 19 is that the received and stored calling party number information each includes at least a portion of a telephone number of the calling party (page 11, lines 4-11).

The invention of claim 20 is that the accessing step includes accessing the IP-based database server according to LDAP protocol (page 10, lines 26-28).

The invention of claim 21 is that the retrieving step includes accessing the personalized voice message stored in the IP-based database server according to LDAP protocol (page 11, lines 4-6).

The invention of claim 22 is that the retrieving step includes retrieving the stored personalized voice message from the IP based database server (page 11, lines 4-6).

The invention of claim 23 is that the step of receiving calling party number information includes receiving an HTTP request from the calling party, the HTTP request containing the calling party number information (page 10, lines 15-16).

The invention of claim 24 further includes generating an HTML page having XML tags for specifying playing of the personalized voice message (Figure 4, step 212).

The invention of claim 25 is that the step of generating the HTML page includes inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file (page 8, lines 19-21).

The invention of claim 26 further includes corresponding a flag to certain of the stored calling party number information, the flag indicating a calling feature defined by a called party for use by the calling party (page 12, lines 20-23).

The invention of claim 27 is that the calling feature defines one of a paging operation and a single number reach operation (page 12, lines 20-23).

The invention of claim 28 further includes receiving a dialed number identification string (DNIS), and wherein the accessing step includes accessing a subscriber's profile based on the DNIS, the subscriber's profile including the stored calling party number information and the corresponding personalized voice message (page 10, lines 18-28).

The invention of claim 29 is a messaging system for playing a messaging prompt of a called party to a calling party in response to a request for execution of a messaging

operation, the request containing calling party number information. The messaging system including means for retrieving, for playback as the messaging prompt to the calling party, a personalized voice message of the called party based on a match of the received calling party number information with calling party number information stored in an Internet Protocol (IP) based database server (page 9, lines 13-24). The personalized voice message corresponds to the matched, stored calling number information of the calling party.

The invention of claim 30 is that the retrieving means is configured to access the IP-based database server according to LDAP protocol (page 10, lines 26-28).

The invention of claim 31 is that the received and stored calling party number information each includes at least a portion of a telephone number of the calling party (page 11, lines 4-11).

The invention of claim 32 is that the retrieving means is configured to dynamically generate in response to the request, a hypertext markup language (HTML) document having XML tags specifying playing of the personalized voice message (Figure 4, step 212).

The invention of claim 33 is that the retrieving means is configured to generate the HTML page including inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file. (page 8, lines 19-21).

The invention of claim 34 is that the retrieving means is configured to access a subscribers' profile based on a dialed number identification string (DNIS), the

subscriber's profile including the stored calling party number information and the corresponding personalized voice message (page 10, lines 18-28).

6. Issue

Whether claims 1, 2, 4, 5, 9-14, 15, 18-20, 22, 26-31 and 24 are patentable under 35 U.S.C. 103(a) as not being obvious from Burg (6,532,286) in view of Schneider et al. (US 5,768,382) and whether claims 3, 6-8, 16, 17, 21, 23-25, 32 and 33 are patentable under 35 U.S.C. 103(a) as not being obvious from Burg in view of Schneider et al. and further in view of Bobo, II (US 5,870,549).

7. Grouping of Claims:

With regard to the obviousness rejections claims 1-11 and 18-28 stand or fall together; and claims 12-17 and 29-34 stand or fall together.

8. Arguments

Claims 1, 2, 4, 5, 9-15, 18-20, 22, 26-31 and 34 are patentable under 35 U.S.C. §103(a) over Burg in view of Schneider et al. and claims 3, 6-8, 16, 17, 21, 23-25, 32 and 33 are patentable under 35 U.S.C. 103(a) as not being obvious from Burg in view of Schneider et al. and further in view of Bobo, II.

In the final Office Action, the Examiner rejected claims 1, 2, 4, 5, 9-15, 18-20, 22, 26-31 and 34 under 35 U.S.C. §103(a) over Burg in view of Schneider et al. The claimed invention is not taught or suggested by Burg and Schneider et al. for the following reasons.

The claims relate to playing a personalized message of a called party to a calling party. A called party or a representative thereof can prerecord a personalized message for the calling party based on the calling party's number information (e.g., entire phone number, or area code, etc.) Thus, calling party number information that specifies the calling party is received. Stored calling party number information is accessed from an Internet Protocol (IP) based database server configured for storing calling party number information. The received calling party number information is compared to the stored calling party number information to determine if there is a match between the received calling party number information and the stored calling party number information. Based on a determined match, a personalized voice message corresponding to the matched, stored calling party number information, is retrieved for playback as the messaging prompt to the calling party.

As an example of implementation of such features, as indicated in the present specification, if a called party's friend (calling party) is expected to call from calling number 408-555-555, the messaging system can associate this calling number with a personalized message such as, "Hello Joe, I just left. Meet me at the golf course". Since the message is a prompt, Joe (calling party) could leave a message such as, "I will be there in 20 minutes."

Burg discloses a system for processing a telephone call to an on-line subscriber when the subscriber's telephone line is busy due to being on-line. The incoming call is forwarded to a server and information about the call is stored in a call-back list server.

The system sends a message to the subscriber and the subscriber can review the call-back list and return calls or listen to messages while remaining on-line. This has no relation to providing a messaging prompt (e.g., greeting of called party) to a calling party based on the calling party's identity.

In the Advisory Action, the Examiner asserts that a calling party (station 116 in Fig. 1) makes an Internet connection to a caller (station 118 in Fig. 1) and accesses data information. However, Burg merely teaches that, in a response to a subscriber's incoming call to connect to the Internet, a record of subscriber information is made and if the subscriber enters the correct name and password, the subscriber is permitted to access the Internet. Once on the Internet, the subscriber can access his or her voice mail (messages). See the Abstract of Burg.

Burg does not teach or suggest retrieving a personalized voice message of a called party corresponding to a matched, stored calling party number information, for playback to the calling party as the messaging prompt as defined in the claims. In Burg, the subscriber can merely retrieve his or her messages from calling parties while on-line. A retrieved message is not a personalized voice message of a called party for playback as a messaging prompt to a calling party. The retrieved message in Burg is merely a voice mail message left by a calling party. There is no way the subscriber in Burg can leave a message in response to the retrieved voice mail message since the voice mail message of Burg is not a prompt.

The Examiner states “Burg does not specifically disclose the messaging prompt to the user.” Applicants assume that the Examiner is using the term “user” to mean the calling party who is accessing the Internet for his messages in Burg. The Examiner then cites Schneier as disclosing a message prompt to a user and contends it would be obvious to implement the Schneier feature in Burg to connect user to the Internet.

There is no suggestion in Burg or Schneier of retrieving a personalized voice message of a first party corresponding to a matched, stored number information of second party, for playback to the second party as a messaging prompt. Teachings of references can be combined only if there is some suggestion or incentive to do so. In re Fine, 5 USPQ2d 1596,1600 (Fed. Cir. 1988) (quoting ACS Hosp. Sys. v. Montefiore Hosp., 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original).

Even if the teachings of Schneier were combined with Burg, the combination would not result in the claims. In particular, Schneier merely teaches that a user is prompted to speak his or her name to create a voiceprint. This is not a teaching or suggestion of retrieving a personalized voice message of a called party corresponding to a matched, stored calling party number information, for playback to the calling party as the messaging prompt. There is no disclosure in Schneier that the prompt is a voice message, let alone a personalized voice message of a called party, to the calling party as claimed. In addition, if the prompt of Schneier were employed in Burg, the prompt would merely be a request for the subscriber to speak so as identify the subscriber. Such identification would be unnecessary since, in Burg, the subscriber has previously

been identified by his password. "It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Accordingly, the rejection is improper.

With regard to claims 3, 6-8, 16, 17, 21, 23-25, 32 and 33, these claims depend from the independent claims and are considered to be allowable for the reasons advanced above and for the additional reason that the added subject matter thereof is neither taught nor suggested by the prior art of record.

Conclusion

For the reasons set forth above, it is clear that the Appellant's claims 1-34 are not obvious from Burg in view of Schneider et al. in view of Bobo, II. Accordingly, it is respectfully submitted that the present invention should be properly patentable over these references. It is respectfully requested that this appeal be granted and that the Examiner be reversed.

Respectfully submitted,

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APPENDIX — Claims on Appeal

1. (Previously Presented) A method for playing a messaging prompt of a called party to a calling party, the method comprising:

receiving calling party number information specifying a calling party;

accessing stored calling party number information from an Internet Protocol (IP) based database server configured for storing calling party number information;

comparing the received calling party number information to the stored calling party number information to determine if there is a match between the received calling party number information and the stored calling party number information; and

based on a determined match, retrieving a personalized voice message of the called party corresponding to the matched, stored calling party number information, for playback as the messaging prompt to the calling party.

2. (Original) The method of claim 1, wherein the received and stored calling party number information each includes at least a portion of a telephone number of the calling party.

3. (Original) The method of claim 1, wherein the accessing step includes accessing the IP-based database server according to LDAP protocol.

4. (Original) The method of claim 1, wherein the retrieving step includes accessing the personalized voice message stored in the IP-based database server according to LDAP protocol.

5. (Original) The method of claim 1, wherein the retrieving step includes retrieving the stored personalized voice message from the IP based database server.

6. (Original) The method of claim 1, wherein the step of receiving calling party number information includes receiving an HTTP request from the calling party, the HTTP request containing the calling party number information.

7. (Original) The method of claim 6, further including generating an HTML page having XML tags for specifying playing of the personalized voice message.

8. (Original) The method of claim 7, wherein the step of generating the HTML page includes inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file.

9. (Original) The method of claim 1, further including corresponding a flag to certain of the stored calling party number information, the flag indicating a calling feature defined by a called party for use by the calling party.

10. (Original) The method of claim 9, wherein the calling feature defines one of a paging operation and a single number reach operation.

11. (Original) The method of claim 1, further including receiving a dialed number identification string (DNIS), and wherein the accessing step includes accessing a subscribers' profile based on the DNIS, the subscriber's profile including the stored calling party number information and the corresponding personalized voice message.

12. (Previously Presented) A messaging system for playing a messaging prompt of a called party to a calling party in response to a request for execution of a messaging operation, the request containing calling party number information, the messaging system including:

an application runtime environment configured for retrieving, for playback as the messaging prompt to the calling party, a personalized voice message of the called party based on a match of the received calling party number information with calling party number information stored in an Internet Protocol (IP) based database server, the personalized voice message corresponding to the matched, stored calling number information of the calling party.

13. (Original) The system of claim 12, wherein the application runtime environment is configured to access a subscribers' profile based on a dialed number

identification string (DNIS), the subscriber's profile including the stored calling party number information and the corresponding personalized voice message.

14. (Original) The system of claim 12, wherein the application runtime environment is configured to access the IP-based database server according to LDAP protocol.

15. (Original) The system of claim 12, wherein the received and stored calling party number information each includes at least a portion of a telephone number of the calling party.

16. (Original) The system of claim 12, wherein the application runtime environment is configured to dynamically generate in response to the request, a hypertext markup language (HTML) document having XML tags specifying playing of the personalized voice message.

17. (Original) The system of claim 16, wherein the application runtime environment is configured to generate the HTML page including inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file.

18. (Presently Presented) A computer readable medium having stored thereon sequences of instructions for playing a messaging prompt of a called party to a calling party, the sequence of instructions including instructions for performing the steps of:

receiving calling party number information specifying a calling party;

accessing stored calling party number information from an Internet Protocol (IP) based database server configured for storing calling party number information;

comparing the received calling party number information to the stored calling party number information to determine if there is a match between the received calling party number information and the stored calling party number information; and

based on a determined match, retrieving a personalized voice message of the called party corresponding to the matched, stored calling party number information, for playback as the messaging prompt to the calling party.

19. (Original) The medium of claim 18, wherein the received and stored calling party number information each includes at least a portion of a telephone number of the calling party.

20. (Original) The medium of claim 18, wherein the accessing step includes accessing the IP-based database server according to LDAP protocol.

21. (Original) The medium of claim 18, wherein the retrieving step includes accessing the personalized voice message stored in the IP-based database server according to LDAP protocol.

22. (Original) The medium of claim 18, wherein the retrieving step includes retrieving the stored personalized voice message from the IP based database server.

23. (Original) The medium of claim 18, wherein the step of receiving calling party number information includes receiving an HTTP request from the calling party, the HTTP request containing the calling party number information.

24. (Original) The medium of claim 23, further including generating an HTML page having XML tags for specifying playing of the personalized voice message.

25. (Original) The medium of claim 24, wherein the step of generating the HTML page includes inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file.

26. (Original) The medium of claim 18, further including corresponding a flag to certain of the stored calling party number information, the flag indicating a calling feature defined by a called party for use by the calling party.

27. (Original) The medium of claim 26, wherein the calling feature defines one of a paging operation and a single number reach operation.

28. (Original) The method of claim 18, further including receiving a dialed number identification string (DNIS), and wherein the accessing step includes accessing a subscriber's profile based on the DNIS, the subscriber's profile including the stored calling party number information and the corresponding personalized voice message.

29. (Previously Presented) A messaging system for playing a messaging prompt of a called party to a calling party in response to a request for execution of a messaging operation, the request containing calling party number information, the messaging system including:

means for retrieving, for playback as the messaging prompt to the calling party, a personalized voice message of the called party based on a match of the received calling party number information with calling party number information stored in an Internet Protocol (IP) based database server, the personalized voice message corresponding to the matched, stored calling number information of the calling party.

30. (Original) The system of claim 29, wherein the retrieving means is configured to access the IP-based database server according to LDAP protocol.

31. (Original) The system of claim 29, wherein the received and stored calling party number information each includes at least a portion of a telephone number of the calling party.

32. (Original) The system of claim 29, wherein the retrieving means is configured to dynamically generate in response to the request, a hypertext markup language (HTML) document having XML tags specifying playing of the personalized voice message.

33. (Original) The system of claim 32, wherein the retrieving means is configured to generate the HTML page including inserting a first media tag including a .wav file and a second media tag configured for controlling playing of the .wav file.

34. (Original) The system of claim 29, wherein the retrieving means is configured to access a subscribers' profile based on a dialed number identification string (DNIS), the subscriber's profile including the stored calling party number information and the corresponding personalized voice message.